

the opportunities we have offered to generations of immigrants, maintains those great American values that I hold so dear, and improves our security.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MCCASKILL. Mr. President, are we in morning business?

The PRESIDING OFFICER. Yes, we are.

THE DISCLOSE ACT

Mrs. MCCASKILL. Mr. President, I come to floor today to tell a sad, sad story of hypocrisy. It is not the first time we have told stories of hypocrisy around this Capitol Building, but this one is a particularly sad story of hypocrisy because right now, the ending is ugly.

In America, we like nice endings. This story of hypocrisy has a very bad ending. The name of this story is, Who is trying to buy your government? There are folks out there right now trying to buy your government. The saddest part of this story is that we have no idea who they are. So why is it a story of hypocrisy? Well, we can start with how we got here.

I have heard so many times—I cannot count how many times I have heard my colleagues in the other party talk about the evils of an activist court. Well, we have to make sure we do not have activist judges. Well, no, I am not opposed to this nominee because he is appointed by a Democratic President; I am opposed to this nominee because of activism, evil activism. We have to watch out for activism.

So along comes the Citizens United case. If you looked up “judicial activism” in a reference book, you would find the title “Citizens United.” This Court went off the tracks. They created precedent out of whole cloth in an effort to turn our democracy into a race for the highest bidder.

I think it is hypocritical for people to come before the Senate Judiciary Committee and be eloquent—because these are all smart people—very eloquent about the evils of judicial activism and then proceed to dismantle a system that is all about the public’s right to know.

There is another part of this that is hypocritical, besides the notion that somehow conservative people are not judicial activists. They are not judicial activists when they are active for something you believe in. Then it is not activism. In other words, judicial activism is in the eye of the beholder. I can think of a lot of Supreme Court cases that could back up that assertion.

The other thing that is so hypocritical about this is the ridiculous notion that so many people in this body have talked about transparency like it is so near and dear to them. We must have transparency. We must have an open door. We must have sunlight. Let me read a few quotes. This is rich:

Public disclosure of campaign contributions and spending should be expedited . . .

Think about that term, especially when we realize where it came from.

Public disclosure of campaign contributions and spending should be expedited so voters can judge for themselves what is appropriate.

Good, old-fashioned common sense. That is from the leader of the Republican Party.

How about this one:

I think what we ought to do is we ought to have full disclosure, full disclosure of all the money we raise and how it is spent. And I think that sunlight is the best disinfectant.

That came from the leader of the Republican Party in the House.

I think the system needs more transparency so people can more easily reach their own conclusions.

I couldn’t agree more. That comes from the Senator heading up the Republican effort to elect Republican Senators this year.

I could go on and on. We have a Supreme Court decision that turns the section of the IRS Code, 501(c), into an open bazaar. What was supposed to be not political and not for profit is now a mushrooming industry of nonaccountable, unaccountable organizations that nobody has any idea where they are coming from, who is writing the checks, and what their motivations are. These groups have fallen into a regulatory nirvana. There is no regulation. There is nobody watching. There is nobody asking questions.

These are social welfare organizations, 501(c)(4)s, like Crossroads, which is one that sprung up. It has been the top spender. It hasn’t been the Republican committees or the Democratic committees. The top spender in the Senate races is a group we have no idea what it is or who is writing the checks.

We have to realize they don’t even have to file anything with the government, with the IRS, until February, March, April. How many people think these organizations are going to be around after November? Really? How naive are you? They have to find some excuse, right, because this is embarrassing that they are blocking our efforts at making campaign finance contributions transparent?

One can’t really say: Hey, we are going to change our mind about transparency because we have an election to win and we have a bunch of rich people out here who want to write big checks or big corporations that want to write big checks. So what do you do? You try to make it about the big, bad unions. These rules need to apply to unions too.

Unions are doing ads right now. They should be saying what unions are doing

them. We should know where their money comes from. We do know where their money comes from. It comes from their members. But we ought to know who is doing it. This law requires the same thing of unions that it requires of anyone else writing big checks.

Who is going to buy your government? It could be like a game show. We could have a big wheel and spin the wheel and people could guess who is buying the government. I am worried about government contractors. There has been big money in government contracting. I have noticed from firsthand experience that when we start shaking the trees of these government contractors, they fight back. As I have tried to clean up some of the contracting messes that have littered the financial landscape of the Federal Government, I have run into an amazing amount of resistance from the underground power of these government contractors.

Let’s look at Blackwater. We know they have created dozens of fake names to do business with the government. Many of them are noncompetitive. Many of them are highly lucrative. They are hiding the identity of their company for purposes of contracting.

Can colleagues imagine what they are capable of if they get to write checks to influence elections with nobody knowing it? I am in big trouble. I have gone after a lot of these big contractors. Now I think my picture is probably on a lot of their dart boards. Now they don’t have to worry about throwing a dart. They don’t have to worry about it. All they have to do is anonymously write big checks. Millions of dollars. Write a check for \$10 million. Blow out an election in a State. Nobody has to know who did it.

Foreign interests, yes; the Citizens United case created all kinds of loopholes that are actually delineated in the case. They explained the loopholes that are being created, if one reads the entire decision, for foreign corporations. It is like after that case we have fallen down a rabbit hole in terms of everything we should believe in in terms of our election processes.

In the old days, they used to have the term, “the bagman.” The bagman was not exactly a positive term for people. The bagman was the guy who was in charge of carrying the money around in a bag. There was a time in this democracy where they actually did that. Big bags of cash were carried around and delivered to people’s desks in every level of government in the country. The people in this great democracy rose up and said: We want to clean up this mess. We want candidates to have to report how much money they are getting.

Some States said: We want to limit how much they are getting. We limit how much we get. I don’t know why we are not honest about this. I don’t know why they don’t just propose an alternative bill that we do away with any kind of limits. Frankly, it might be a better tradeoff.

If somebody put a gun to my head and said: You have to choose. Do you want all the money being spent on campaigns disclosed where it is coming from or do you want limits, I think I would take the disclosure because I trust the American people. If they know who is paying the bill, they can make a good judgment whether they trust what that commercial says or what that mailer says or what that robo call says.

Trust is the great intangible around here. We can't do our jobs with dignity and with honor if we are hypocrites and if there is not trust. Does anyone imagine that the American people are going to trust us more when we have open season on elections by the highest bidder?

I implore my colleagues, clean up this mess with us. Don't put the last nail in the coffin of bipartisanship. This should be a bipartisan effort. One rich guy who has a grudge against you can make unfair commercials and never be held accountable, regardless of whether you are a Democrat or a Republican.

I am not as offended by the notion that wealthy people can spend their money however they want as I am by the notion that they can buy elections with it and not be held accountable. We have a very wealthy guy in St. Louis, Rex Sinquefeld, who is spending millions of dollars influencing elections and issues in Missouri. I kind of admire the guy. He is up front about it. He is not handing checks off to Karl Rove somewhere. He is very up front.

Trust is the great intangible. Everyone who blocks the effort to require full disclosure of money that is being spent on political campaigns does great damage to the most precious commodity we have in this country, and that is the strength of our democracy.

I hope the American people, who are pretty cranky right now—and I get it; they are upset; they ought to be really mad about this—hold every one of us accountable. If you are not willing to support a bill that will require full disclosure of people who are spending money on political advertising, then I don't know how seriously we can take anything you say you stand for.

Let's get the DISCLOSE Act up now. Let's clean up this mess. I guarantee my colleagues, it is going to have an ugly ending. This story will not have a good ending unless we change the plot.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, "[c]learly the American public has a right to know who is paying for ads and who is attempting to influence elections. Sunshine is what the political system needs."

We can try and regulate ethical behavior by politicians, but the surest way to cleanse the system is to let the Sun shine in.

I don't like it when a large source of money is out there funding ads and is unaccountable.

I think the system needs more transparency so people can more easily reach their own conclusions.

I support campaign finance reform, but to me that means individual contributions, free speech and full disclosure.

Public disclosure of campaign contributions and spending should be expedited so voters can judge for themselves what is appropriate.

The issue is expenditures, expenditures, expenditures; and the real issue, if we really want to do something about campaign finance reform, is disclosure, disclosure, disclosure.

Disclosure helps everyone equally to know how their money is spent. . . . Disclosure is what honesty and fairness in politics is all about. Why would anyone fight against disclosure?

Those are all excellent points. The fact is, they were made by seven different Members of this body, all from my friends on the other side of the aisle. They were made either on the floor of this body or to the press.

So let there be no doubt, for a long time, disclosure of election spending has been a robustly bipartisan issue. But suddenly each of my friends has changed his or her tune. They now oppose legislation called the DISCLOSE Act—disclose, disclosure—the DISCLOSE Act that would force companies, nonprofits, and unions to disclose the money they spend in our elections, both to the Federal Election Commission and to the American people.

Here is one reason why they may have changed their tune. Thanks to the Supreme Court's decision in *Citizens United*, which Senator MCCASKILL just spoke so eloquently about, corporations today have more power to spend in our elections than they have had in our lifetimes. In that decision, the Roberts Court broke with a century of precedent, overturned two Federal laws, reversed two of its own decisions, and nullified 24 State laws, including a 20-year-old Minnesota law. The Supreme Court did all that to allow corporations to spend as much money as they want, whenever they want, in our elections and not just Federal elections—State elections, county elections, school board elections.

Here is another reason my friends have changed their tune: Those corporations are using their newfound power to disproportionately benefit my friends across the aisle. Since August 1, Republican interest groups have outspent Democratic interest groups 5 to 1, and these corporations are funneling millions upon millions of dollars into our elections without anyone knowing where that money came from.

It is no accident they are so eager to influence elections and to do so anonymously. You know why? Because Congress has finally stepped in to protect consumers from abuses by big businesses that have been allowed for far too long to write their own rules. So big businesses are giving money anonymously.

Corporations will not spend money on just any election. They are going to spend it when we, the Congress, try to

pass laws that are tough on Wall Street or on health insurance companies. They are going to spend it when your city council debates whether to allow a new toxic waste dump that wants to come to town. They are going to spend it when anyone tries to pass consumer and environmental laws that protect our families and our homes. The best part of it is, they do not want anyone to know they are doing it.

That is why we need the DISCLOSE Act. The DISCLOSE Act will allow Americans to know how and which corporations and unions are trying to influence elections. The DISCLOSE Act would make sure we do not need a permission slip from big business to run our communities.

Let me repeat what it will do. First and foremost, the DISCLOSE Act is about disclosure; hence, the DISCLOSE Act. That is why it is named that. It will force CEOs, union heads, and leaders of advocacy groups, along with their top contributors, to be identified in the ads they pay for. These same groups, corporations, nonprofits, and unions would be required to disclose their top donors to the Federal Election Commission.

If a company has shareholders, they are going to have to disclose their expenditures to those shareholders in periodic reports and on their Web sites.

Some of my friends across the aisle are saying the DISCLOSE Act is not just about disclosure, it has some other stuff in there. You know what? They are right. It has a few other things in there. What are they? Well, a prohibition on spending by companies receiving taxpayer money in the form of major government contracts—the Senator from Missouri talked about that as well—or companies that have received TARP funds they have yet to pay back.

What else? A prohibition on expenditures by companies where a foreign individual or company or nation has a controlling share, as it is defined by Delaware and 30 other States—that is, at it is defined by 31 of the 32 states that define a controlling share with a number. This is a provision I authored and that Senator SCHUMER included in this piece of legislation. This provision will prevent CITGO, owned by Venezuela, from using the *Citizens United* decision to pour money into our elections.

I welcome the opportunity to debate these provisions. I welcome it. So far, some of my friends will not allow that debate to happen. No debate, and the American people will continue to suffer for it.

So I urge all my colleagues to allow debate on this important bill. Allow debate on this bill. It is about the future of our democracy. Allow debate.

Before I conclude, let me quote again a prominent friend on the other side of the aisle:

Public disclosure of campaign contributions and spending should be expedited so voters can judge for themselves what is appropriate.

Let me repeat that: "Public disclosure of campaign contributions and spending should be expedited so voters can judge for themselves what is appropriate."

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

RAISING TAXES

Mr. KYL. Mr. President, we continue to have a discussion about whether there should be a tax increase on Americans and, if so, which ones. We are not sure whether the Senate is going to vote on one of those propositions before the elections, but there appears still to be a chance we would do that.

I found it of interest that a couple surveys—one of economists and one of Americans generally—throw more cold water on the idea that we should be raising taxes on any Americans.

I wish to report, first of all, a CNBC poll which just came out today. The headline is "Most Americans Want All Bush Tax Cuts Extended." Well, that is another way of saying: We should not raise taxes on any Americans. I will just quote from two lines:

In the new poll released this week, 55 percent said that "increasing taxes on any Americans will slow the economy and kill jobs". . . . Only 40 percent said the Bush-era tax cuts should be canceled for higher earners. . . .

One other interesting statistic is that the poll showed that "55 percent of Americans said [President] Obama's overall economic plans have made things worse so far."

This poll is consistent with every other we have seen. Most Americans do not believe we should be raising taxes on anyone—on the wealthy, on businesses, on others, on anyone. I think most of them get the fact that if you start raising taxes, particularly in the middle of a recession, you are going to kill economic recovery and certainly slow the creation of more jobs.

Well, that was also the opinion of a group of economists who were surveyed by CNN. They surveyed 31 different economists and had a variety of options. They asked: What should the Senate and the House do? In this survey, 18 of the economists said we should not raise taxes on anyone—in other words, extend the tax rates that have been in effect for the last 10 years for everyone, continue to extend them. There were only three of the economists, incidentally, who said: No, we should differentiate, extend for some but not extend for others. In other words, it is OK to go ahead and raise taxes on the so-called wealthy.

I noted also today that the National Taxpayers Union released a letter with 300 economists saying the same thing, that we should not raise taxes on anyone. Finally, I noted in comments I made Monday that Secretary Geithner had said what we should be doing to preserve jobs in America is to promote

savings and investment. That is, of course, precisely what we should be doing. Unfortunately, that is exactly the opposite of what would happen if we raised the taxes on the so-called upper two brackets because that is how small businesses, by and large, pay their taxes.

Fifty percent of the approximately \$1 trillion of business income will be reported on returns that have a marginal rate in the top two brackets. That is another way of saying, if you increase the tax in those top two brackets, you are going to dramatically impact small businesses that create about 25 percent of the total workforce here in the United States.

In testimony before the Finance Committee, on which I sit, the former Director of CBO, Doug Holtz-Eakin, testified that an increase in the top effective marginal income tax rate would reduce the probability that a small business entrepreneur would add to his or her payrolls by roughly 18 percent. I suggest it may even be more than that.

What I would like to do is quote from comments from a few small business folks as to the effect of the tax increase on them. If the tax increase were to be voted on by this body and the House of Representatives and adopted into law or if the current tax rate is not extended for everyone, here is what a few small business folks say would happen to them. Some of these examples come from the Chamber of Commerce, some from the National Federation of Independent Business.

For example, Mark Clinton of Decisive Management in Little Rock, AR: Last year, he says, he paid about half his business's income back in taxes. He has a small business that meets this threshold I mentioned before, and he said any tax increase would effectively kill his business. I thought it was interesting. He gets frustrated, he said, when he hears the top-tier tax cuts referred to as tax cuts for "the rich." He said:

These are employers who work hard to balance their budgets and make ends meet. They need money to sustain their businesses. Do you want someone who is broke as your employer? No. You want someone who is able to pay their bills and pay your salary.

Here is another example of someone who says he would be hurt if his taxes are raised: Jim Murphy, from the firm EST Analytical, in Cincinnati, OH. If taxes go up above the \$250,000 threshold, the bottom line of his business will suffer and he will be forced to make serious business decisions to make up for the lost income. He just recently lifted a pay freeze that has been in place for almost 18 months. His company suspended the 401(k) contributions at the same time, and that likely will have to continue into the future. So instead of potentially hiring more people, he is definitely not going to make any new hires. He said that the threat and uncertainty of health care costs going up next year is also a great concern.

So instead of purchasing needed capital equipment and generating economic activity

for other businesses, I will have to make do with what we have.

I will just mention a couple more.

Ron Hatch of Hatch Furniture in Yankton, SD, said his business, which is a furniture store, has struggled. He has seen his business fall by 25 percent. He had to close one of his two stores. His business is heavily dependent on capital, and he says any tax increase would inhibit his ability to compete and force him to lay off more workers. If the current tax rates are allowed to expire, he says he might well have to go out of business.

Steve Ferree, who owns a Mr. Rooter Plumbing in Gladstone, OR, says he has been lucky his business has been able to survive so far but that increasing his tax rates, the rate at which he pays—just what we are talking about here—would directly impact his business. He would not be able to consider hiring a new employee or buying new equipment should the tax hike take effect.

There are several from the printing industry. I will just quote from one.

Mike Nobis of JK Creative Printers in Quincy, IL, makes the point that the tax increases hurt his clients which then, in turn, hits him. He talks about the fact that his clients are having to cut back their budgets and that this has had an impact on him. He said that increasing taxes will be especially hard-hitting for his clients. As a result, he is going to continue to lose customers, and with that loss of customers combined with the tax increase hitting his own budget, he will be hit from both sides. The looming tax increase and uncertainty with forthcoming health care mandates have left him in a position where he is hesitant to take on risks and grow his business.

Another example from the printing industry: Frank Goodnight of Diversified Graphics in Salisbury, NC. Another from the real estate industry—a lot of examples there—Curt Green from Curt Green & Co. in Texarkana, AR.

Let me close with two examples that show other indirect effects.

Steve Walker from Walker Information in Indianapolis, IN, talks about one of the indirect consequences of his firm having to pay more in taxes, his small business. It is a family business. He said: We have always taken care to give back to our community in Indianapolis and central Indiana. Here is a direct quote:

If Congress increases taxes, it will directly affect the extent of our charitable work, in addition to impacting our company's bottom line. I look at pretax dollars as a pie chart. Right now, Uncle Sam gets 35 percent. If Uncle Sam gets 39.6 percent, then 4.6 percent will come from other uses. For us, those uses are as follows: Reinvest in the business, give to charity, and meet capital obligations.

Meeting capital obligations are fixed, so the impact of a tax increase will reduce the amount available for charity first and investment capital second. I have already made plans assuming that some sort of tax increase is coming.

And he talks about how that will drop his contributions to United Way, for example.